

Fiscal Analysis

04 NCAC 03C .1601 FEES, COPIES AND PUBLICATION COSTS

Prepared by

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General Information

Agency	North Carolina Commissioner of Banks
Rule Title	Fees, Copies, and Publication Costs
Citation	04 NCAC 03C .1601
Proposed Action	The Commissioner of Banks proposes to amend the rule setting fees for applications as a result of substantial revisions to the North Carolina banking laws that took effect in October 2012.
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Authority	N.C.G.S. §§ 53C-3-1; 53C-5-2; 53C-7-101; 53C-7-102; 53C-7-201; 53C-7-207; 53C-7-301; 53C-10-102; 53C-10-103; 53C-10-201; 54B-34.2; 54C-47
Impact Summary	State Government: No. Local Government: No. Federal Government: No. Substantial Impact: No.
Necessity	This action is not required by federal statutes, but it is proposed to align application fees with fees set in the 2012 Banking Modernization Study and revised Chapter 53C of the North Carolina General Statutes. The current rule was last revised in June 2004.

Summary

The North Carolina Commissioner of Banks (“NC COB”) is proposing a permanent rule change that will alter the fee structure of the agency, but that will not have an impact on state or local government or a substantial economic impact.

The NC COB regulates state-chartered depository financial institutions in North Carolina. It has primary supervision authority over commercial banks, savings banks, savings and loans, as well as supervision authority over certain non-depository trust companies, lenders, check-cashers, and money transmitters.

The NC COB is charged with general rule-making authority with the review and approval of the North Carolina State Banking Commission (“NC SBC”) pursuant to N.C.G.S. § 53C-2-5. The NC SBC is a 15 member oversight committee composed of (i) the State Treasurer, (ii) 12 members appointed by the Governor, and (iii) 2 members appointed by the General Assembly

pursuant to N.C.G.S. § 53C-2-1(a). The NC COB is assisted in the duties of office by the Office of the Commissioner of Banks (“NC OCOB”).

Purpose and Description of the Rule Change

The NC COB seeks to amend the rule governing application fees for commercial banks, savings banks, savings and loans, bank holding companies, and non-depository trust companies, to 1) eliminate unused or infrequently used fees; 2) set fees consistent with N.C.G.S. §§ 53, 53C, 54B, and 54C; and 3) to increase certain application fees consistent with recommendations made by the Joint Legislative Study Commission on the Modernization of the Banking Laws.

The NC COB seeks to eliminate unnecessary fees. Specifically, the rule proposes to eliminate the \$3,000 fee for an “Application for Reorganization,” as well as the \$750 fee for “Application for Authority to Invest in a Subsidiary.” This Reorganization Fee has rarely been used by the agency, and appears to have no applicability under current statutes. Likewise, the \$750 Subsidiary Investment Fee was no longer authorized after the North Carolina commercial banking laws were comprehensively rewritten in 2012.

As a result of the banking law revision in 2012, a number of new fees were authorized and required to be set by rule. Specifically, N.C.G.S. § 53C-7-102(a) and N.C.G.S. § 53C-10-103(a) requires a person engaging in a control transaction with a bank or bank holding company to file an application with the NC COB and pay filing fees as required by rule. A control transaction is defined as “the acquisition of control over a bank or a holding company other than pursuant to a combination” pursuant to N.C.G.S. § 53C-1-4(22). Prior to the 2012 state banking law revisions, a fee for processing such applications was not explicitly permitted. Similarly, N.C.G.S. § 53C-10-201 requires a bank holding company to file an application and pay such fees as are required by rule prior to merging with other companies. Prior to the 2012 state banking law revisions, the NC COB did not have express regulatory authority over bank holding companies. The proposed fee for change in control transactions is set at \$5,000 to accurately reflect the costs involved in processing such applications.

Finally, the proposed rule increases the merger application fee for the first time in 10 years to more accurately reflect the costs involved in processing such applications. Specifically, the merger application fee applicable to banks, non-depository trust companies, and bank holding companies is increased from \$3,000 to \$5,000.

Estimated Impact

State Government

The proposed amendments will not require additional expenditure or distribution of State funds. Application fee income is not paid into the General Fund. These funds are used to support the operations of the NC OCOB. The operations of the NC OCOB are funded through assessments and fee income from regulated entities. No state funds are used to pay NC OCOB salaries or operation costs.

Local Government

The proposed amendment will not affect local government. Application fee income is not paid into any local government fund, and no local government expenditures are required as a result of the proposed change.

Federal Government

The proposed amendment will not affect the federal government. Application fee income is not paid to the federal government, and no federal funds are required as a result of the proposed change.

Private Economic Impact

Commercial banks, savings banks, savings and loan associations, non-depository trust institutions, and bank holding companies are affected by the change. Individuals engaging in control transactions with respect to banks and bank holding companies are also affected.

To estimate the impact from the proposed fee changes, NC OCOB used five-year historical data regarding mergers and change in control applications (see Table 1 below), as well as current specialized knowledge of financial industry trends.

Table 1. Number of Instance When Affected Fees Were Levied Between 2009-2013

	2009	2010	2011	2012	2013
Bank Mergers	2	1	6	9	5
Trust Mergers	-	-	-	-	-
Bank Holding Company Mergers	-	-	-	-	-
Change in Control Applications	-	-	-	-	-
Subsidiary Applications	-	19	13	14	-

Elimination of Unnecessary Fees

The proposed rule eliminates two fees: 1) a \$3,000 fee for an “Application for Reorganization,” and 2) a \$750 fee for an “Application for Authority to Invest in a Subsidiary.”

There is no agency record of receipt of a fee for an “Application for Reorganization,” between 2009 and the present. Accordingly, the NC COB proposes to eliminate this fee. Based on this historical trend, the analysis assumes that there would be no applications for reorganization in the following five years; therefore, the net impact from this fee elimination is estimated to be \$0.

Similarly, following the 2012 banking law revisions, authority for the \$750 fee for an “Application for Authority to Invest in a Subsidiary” was revoked. Over the past several years, NC COB has collected at most \$10,000 to \$15,000 annually, approximately, from this fee. The net impact from the proposed rule that results from the statutory change is an average savings to the banks that the NC COB regulates of \$7,000 and an equal loss of revenue to the NC COB of \$7,000 annually, based on the average fees collected in the past 5 years.

Control Transaction Fee

Following the 2012 banking law revisions, the NC COB was authorized to charge a fee for processing applications related to bank and bank holding company changes-in-control. This fee is proposed at \$5,000. Using historical data from the NC COB non-objection letters for previous changes-in-control issued by the NC COB, there has never been more than 10 change-in-control applications processed in a given year. Using the high estimate of 10 change-in-control applications, the fee income would be at most \$50,000 annually.

Merger Fee Increase

The impact from increasing the merger fee from \$3,000 to \$5,000 is expected to be substantially less than \$100,000, given the industry consolidation that began in 2011 and the modest increase of \$2,000. Although the NC COB cannot predict with any certainty the level of industry consolidation over the next 12 months, assuming that 10 mergers occur annually, the fee income stemming from the increase is estimated at \$20,000.

Total Economic Impact

The total estimated impact of the proposed rule change on regulated entities would be \$63,000 annually (as shown in Table 2), using historical data for numbers of subsidiary, change-in-control, and merger fees, of applications. Accordingly, the NC COB respectfully submits that the rule change does not involve a substantial economic impact within the meaning of N.C.G.S. § 150B-21.4(b1).

Table 2. Estimated Impact Summary

	Estimated Annual Impact
Elimination of Application for Reorganization Fee	\$0
Elimination of Subsidiary Fees	(\$7,000)
Adoption of Change in Control Fees	\$50,000
Change in Bank Merger Fees	\$20,000
Total Cost to Private Sector = Total Revenue to NC COB	\$63,000

APPENDIX

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(a) For applications, petitions, and other proceedings which must be filed with the Commissioner of Banks the following fees shall be paid to the Commissioner of Banks at the time of filing:

(1)	Application for the Formation of a New Bank or State Trust Institution	\$8,000.00
(2)	Application to Merge or Consolidate Banks or Banks, State Trust Institutions <u>Institutions, or Bank Holding Companies</u> (fee is per institution)	\$3,000.00 <u>\$5,000.00</u>
(3)	Application for Reorganization Into a Bank Holding Company Through an Interim Bank (fee is per bank)	\$3,000.00
(4)	Application for Reorganization	\$3,000.00
(4)	<u>Application for Bank or Bank Holding Company Change in Control</u>	<u>\$5,000.00</u>
(5)	Application for Conversion of a National Bank to State Charter	\$2,500.00
(6)	Application for Voluntary Liquidation	\$3,000.00
(7)	Application for Authority to Invest in a Subsidiary	\$750.00
(8) (7)	Application for Conversion of a Savings and Loan Association or a Savings Bank to a State Bank	\$2,500.00

(b) The fees set forth in Paragraph (a) of this Rule are for standard applications, petitions, and other proceedings filed and considered in the ordinary course of business. Any application, petition or other proceeding which in the opinion of the Commissioner of Banks requires extraordinary review, investigation or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time to be determined annually by the Banking Commission. The Commissioner of Banks shall advise an applicant or petitioner in advance of any additional work required and the hourly rate for the same. The hourly rate shall be:

(1)	For Senior Administrative staff	\$75.00
(2)	For an Examiner II <u>Senior Examination Staff</u>	\$50.00
(3)	For an Examiner I <u>Financial Program Manager</u>	\$35.00
(4)	For an Examiner Trainee <u>Financial Examiner</u>	\$25.00

(c) Unless otherwise stated, publications externally printed may be obtained at a cost equal to the actual cost of printing plus shipping and handling. All other publications or public record copies may be purchased at a price of two dollars (\$2.00) for the first page and twenty-five cents (\$0.25) for each additional page.

*History Note: Authority G.S.53C-3-1; 53C-5-2; 53C-7-101; ~~53C-7-102~~; 53C-7-201; 53C-7-207; 53C-7-301; 53C-10-102; 53C-10-103; 53C-10-201; 54B-34.2; 54C-47;
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